IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11868 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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G S R T CORPN

Versus

GH RATHOD C/O KIRIT C SHAH

Appearance:

MR HARDIK C RAWAL for Petitioner

Mr. BA Vaishnav, for Respondent

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 07/09/2001

ORAL JUDGEMENT

#. Rule. Mr.Vaishnav, learned advocate, waives service of rule for the respondent. By consent of the parties, the matter is taken up for final hearing today.

#. The petitioner - Corporation has challenged the award

passed by the Industrial Tribunal, Vadodara in the reference being Reference (IT) No.171 of 1994. The respondent workman is serving as Driver in the S.T.Corporation. He was removed from service on the ground of absenteeism and accordingly was dismissed by order dated 13.3.1992. The said order was challenged by the concerned workman by filing the departmental appeal. The appellate authority substituted the penalty of dismissal by reducing five stages from the basic pay scale of the respondent. The concerned workman was not satisfied with the same and therefore, he raised the industrial dispute.

#. The Industrial Tribunal came to the conclusion that the penalty is on excessive side and that this was not a case in which such excessive penalty is required to be inflicted. Since the workman was reinstated in service, the Industrial Tribunal came to the conclusion that the order reducing five stages from the basic pay scale with permanent effect is on higher side and ultimately the said penalty was set aside. It is required to be noted that the concerned employee seems to have gone on leave without giving leave report and that he has not tendered even the medical certificate. Even in the past, for 19 times, it has been found that the workman has remained absent without leave.

#. In the aforesaid background, this is a case in which atleast some penalty is required to be inflicted upon the workman. Mr.Vaishnav fairly states that the penalty as may be deemed fit by this court may be inflicted upon the respondent. In the facts and circumstances of the case, the order of the Industrial Tribunal is required to be modified and in my view, the concerned employee should be subjected to withholding of one increment with future effect and that the respondent workman shall remain more careful in future and may not act in a reckless manner by remaining unauthorised absent. The order of the Industrial Tribunal is modified to the aforesaid extent. It is clarified that the concerned workman will be subjected to withholding of one increment with future effect and that he will be entitled to other benefits as per the order of the Industrial Tribunal.

#. The petition is partly allowed. Rule is made absolute to the aforesaid extent with no order as to costs.

(P.B.Majmudar,J)
(pathan)